

THE COTEAU PROPERTIES COMPANY

A SUBSIDIARY OF THE NORTH AMERICAN COAL CORPORATION

FREEDOM MINE

204 County Road 15
Beulah, North Dakota 58523-9475
(701) 873-2281 • Fax (701) 873-7226

December 22, 2020

Mr. Dean K. Moos
Director Reclamation Division
Public Service Commission
600 East Boulevard Avenue
Department 408
Bismarck, ND 58505-0480

Dear Mr. Moos:

Final Bond Release #1 to Permit NACT-9001 has been uploaded to the Permit Services site. Changes to text have been tracked using track changes and highlighted in green. Responses below refer to technical deficiencies in your November 18, 2020, letter:

It appears that Coteau has used the 2003 Revegetation Success Standards for proving reclamation success for portions of the bond release application and used the 2018 Draft Revegetation Success Standards for other portions. Please be advised that is appropriate to use either the 2003 or the 2018 versions but regardless of which version is used, it should be used consistently and/or exclusively throughout the bond release application. It is not appropriate to use a combination of the 2 versions to demonstrate reclamation success.

Coteau has chosen to use the 2018 Draft Revegetation Success Standards; adjustments have been made to the bond release package as necessary.

Attachment II – Metes and Bounds Description

- 1. Attachment II – Metes and Bound Description for Tract FBR 9001-145-88-01&02-1: Line 12 in the tract description paragraph contains a bearing without the first cardinal direction (00°'55'51"E). Please revise to indicate whether this direction should be North or South. (SMN)*

Attachment II has been updated with the correct information.

Attachment IV – Letters to Interested Parties

- 2. Please include actual copies of letters sent to adjacent surface owners and government agencies as required by NDCC 38-14.1-17(1)(b). (GAW)*

Actual letters have been included into the Bond Release Package.

Attachment V – Topographic and SPGM Respread Depths Maps

3. *Stock ponds and a wetland are depicted on the SPGM Respread Depths Map, Attachment Va. Please revise the legend to include symbols for these features. (GAW)*

These symbols have been removed from the map and are instead shown on Attachment VIa, Revegetation Initiation Dates and Land Use Map.

4. *Lands affected by mining south of the exclusion area in the NW1/4 of Section 1, northwest corner of the NE1/4 of Section 2, and southwest corner of the SE1/4 of Section 2 must be depicted within the associated disturbance boundary on Attachment Va, SPGM Respread Depths Map. SPGM respread depth information must be provided if SPGM was respread on these areas. Please correct as appropriate. (GAW)*

SPGM respread information has been added to the map.

5. *Please update the associated disturbance boundary on Attachment Vb, Topographic Map, to include lands affected by mining in the NW1/4 of Section 1, northwest corner of the NE1/4 of Section 2, and southwest corner of the SE1/4 of Section 2. (GAW)*

The associated disturbance boundary has been updated on Attachments Vb and Va.

Attachment VI – General Information

6. *Please revise the Bond Release Stages narrative on page 1 of Attachment VI, General Information, to clearly state that first, second and third stage bond releases are being requested and identify the land use performance standards required with each stage, including final bond release. (GAW)*

Language has been updated to state first, second, third and fourth stage bond release is being requested. Coteau does not feel it adds any value to include the performance standards with each stage.

7. *Please consider changing the terminology “ten-year liability period” to “ten-year revegetation responsibility period” in the Liability Period narrative on page 1 of Attachment VI to clearly describe the performance standard. (GAW)*

The language was changed as suggested.

8. *Please revise the Reclamation Practices narrative on pages 1 and 2 of Attachment VI, General Information, to clarify if rocks were picked from some or all lands included in Bond Release No. 1. (GAW)*

A statement regarding rock picking has been added.

9. *Please revise the sentence in the first paragraph of “Reclamation History” to provide specificity and clarity to the sentence that reads “Following reclamation, the bond release tract entered the liability period where several management practices were employed.” The terminology “following reclamation” and “entered the liability period” are vague and ambiguous. Please clarify that planting the approved seed mixture on areas respread with topsoil initiates the 10-year revegetation responsibility period and that this reclaimed native grassland was initially managed as hayland. (GAW)*

The sentence has been revised for clarity. In the yearly management section of this Attachment, years that the tract was hayed is specified.

10. *Please revise the Yearly Management language to clarify if reclaimed native grassland in Sections 1 and 2 were cross fenced and managed with prescribed grazing to achieve an intended result. (GAW)*

A statement was added to clarify how Sections 1 and 2 were grazed.

11. *Please revise the Consolidated Bonding Plan narrative to include a statement that Coteau is not requesting any monetary reduction of the bond with this bond release application. (ZAB)*

A statement was added.

12. *Please revise the General Information narrative to provide detailed information regarding the conservation tree plantings in Section 1 and attempts to establish buckbrush patches in Section 2. Please provide reclamation information for the reclaimed wetland and reestablishing a statutory section line right-of-way between Sections 1 and 2. Please also provide reclamation information for reclaimed County Road 15. Information regarding stockponds constructed on the native grassland should also be provided as well as installing Southwest Water pasture taps and tanks. (GAW)*

Information regarding the buckbrush has been added to the General Information section. Detailed information about the other land uses mentioned is individually contained in the appropriate Attachment. A note referencing this fact has been included in the General Information section.

13. *Please revise the associated disturbance boundary on Attachment VIa, Revegetation Initiation Dates and Land Use Map, to include reclaimed lands located in the NW1/4 of Section 1, northwest corner of the NE1/4 of Section 2, and southwest corner of the SE1/4 of Section 2. (GAW)*

The associated disturbance boundary has been revised.

14. *Please label the undisturbed areas within the bond release tract on Attachment VIa, Revegetation Initiation Dates and Land Use Map or on one of the other maps in the application. (ZAB)*

Undisturbed areas have been labeled as such.

15. *The Pre-Mine Soils Map, Attachment VIc, indicates there were prime farmland soils located within the bond release tract. Although there is no reclaimed cropland within the bond release tracts, please provide a brief narrative indicating where these prime farmland soils were replaced and if these soils were used to develop the revegetation performance standards for the bond release tract. (GAW)*

Narrative has been added to explain the cropland and prime soils.

Attachment VII – Hydrologic Consequences

16. *This attachment should more properly be labeled as Post-Mining Hydrologic Assessment (PHA) because the operator's predictions of hydrologic consequences (PHC) are a permit application requirement, while the PHA analyzes and describes the hydrologic conditions in the post-mining environment, regardless of the bond release tract size. Please consider our request to change the attachment label to Post-Mining Hydrologic Assessment and if that is done, please make the same update in the Printable List of Attachments. (BEB)*

The title of this attachment was changed as requested.

17. *Please update Attachment VII by providing a brief, yet detailed discussion of the pre-mining certified wells and developed springs that are/were located within the bond release tract. Although unlikely, please indicate if the springs have, or are expected in the future, to redevelop in the post-mining setting. We realize the Bertha Ost #1 well was shallow and not in-use at the time of permit application; however, regarding the Gravel Products #2 well located within the SW1/4 of Section 2, this specific area of the bond release tract was not mined, so at a minimum, please indicate if this high production water well remains functional and describe Coteau's long term plans for this well in the post-mine setting. (BEB)*

Descriptions of the wells and springs have been added.

18. *Section D-2 – Summary of Replacement Wells and Rural Water Connections in Coteau's Consolidated Ground Water Monitoring Plan provides information that the Raymond Ost and Bertha Ost pre-mining developed springs were both replaced with SWPP rural water pasture taps and tanks in 2013 within the bond release tract. Please update the Water Supply Replacement narrative in Attachment VII with this information to further demonstrate Coteau's ongoing commitment to adequate water supply replacement in the post-mining setting. The locations of all the SWPP replacement water sources should be depicted and labeled on one of the maps of your choosing within the bond release application. (BEB)*

The narrative has been updated to discuss the SWW tanks and their locations have been added to the map located in Attachment VIa.

19. Please add a footnote to the Ground Water Analysis Table provided on pages 2 and 3 of Attachment VII to denote that TDS data labeled as N/A indicates the well was either dry or there was an insufficient volume of water to collect and analyze a sample. To not provide this simple addition, N/A could be construed by readers to mean the well(s) were not required in the Consolidated Ground Water Monitoring Plan to be sampled for water quality. (BEB)

A footnote has been added.

Attachment IX – Cropland

20. The second sentence of the first paragraph in Attachment IX, Cropland, states that undisturbed cropland is located in the S1/2SW1/4 of Section 2. Attachment VIa, Revegetation Initiation Dates and Land Use Map, does not support this statement. Please review and revise as necessary. (GAW)

The language was changed to state the cropland is located in the SW1/4SW1/4 of Section 2.

Attachment X – Native Grassland

21. Please revise the 2013 and 2015 reclaimed yield values and productivity standards listed on page 2 of Attachment X, after recalculating the correction factors using all five approved reference areas and after providing a weighted average yield for the reclaimed lands. (GAW)

The correction factor has been derived from the average of all reference areas; calculations have been updated accordingly. Weighted average production calculations and values have been included.

22. The last production paragraph on page 2 of Attachment X incorrectly states that productivity has been demonstrated for two growing seasons after the sixth year of the revegetation period. This statement needs to be updated to account for the variance from the 10-year revegetation period for those portions of the bond release tract that were initially seeded in 2011 and 2014. (GAW)

A statement regarding the variance and a reference Attachment VIb containing the variance request has been added.

23. Please update the Diversity and Seasonality narratives in Attachment X, Native Grassland, to clarify if at least 2 warm season and at least 1 cool season grass species comprise at least 3% relative live basal cover during the years being used to demonstrate revegetation success, and clarify if at least 5 native grass species are present on each tract during the years being used to demonstrate revegetation success. (GAW)

Tables previously included in Attachment X, summarize these standards. A statement has been added to each section to provide further clarity.

24. The Section 2 table on page 4 of Attachment X indicates that warm season grasses comprised 56% of the relative composition in 2013 but Table 7 indicates that warm season species comprised 54.2% of the relative cover composition. Please review and revise or otherwise clarify. (GAW)

This error has been corrected; warm season grasses comprised approximately 54% of relative cover in Section 2 in 2013.

25. *Please revise Attachment X, Native Grasslands, to include a statement about whether the reclaimed native grassland vegetation in Sections 1 and 2 meets the permanence standard. (GAW)*

A subsection discussing the permanence standard has been added.

Attachment Xa – Production Standard Calculations

26. *Coteau is proposing to use the 2018 draft Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Post-Mining Vegetation Assessments, but the productivity standards for the native grassland in Sections 1 and 2 are derived from Table 2 of the 2003 version of the Revegetation Success Standards Document rather than from Table 2 of 2018 draft updated success standards document. Please update the production standards for Section 1 and 2 using a single version of the revegetation success standards document. (GAW)*

Production standard calculations have been updated using Table 2 of the 2018 draft version, essentially replacing range sites with ecosites.

27. *Please develop 2013 and 2015 correction factors using all five approved reference areas or all dominant pre-mining ecological sites as recommended in the 2018 draft Revegetation Success Standards Document rather than developing a correction factor from only the silty/loamy reference site. Using only the silty/loamy ecological site is not appropriate since warm season species are not well represented on the site. (GAW)*

The correction factor has been derived from the average of all reference areas; calculations have been updated accordingly.

28. *Please revise the 2013 and 2015 Actual Production values listed in Step 5 of Attachment Xa to provide a weighted average production value rather than a simple average value that does not factor in the relative importance of the size of the subset tracts (grazing cells). (GAW)*

Weighted average production calculations and values have been included.

29. *The 2013 and 2015 Diversity and Seasonality values listed in Attachment Xa, Production Standard Calculations, somehow averages the values listed in Tables 5 through 12. Please provide a narrative describing how an average value for each year was derived from the sampled subtracts within Section 1 and 2. The Reclamation Division believes weighted averages that account for the size of each subtract should be used. (GAW)*

In 2013, the production values from Tables 5 and 6 were used to determine the average production for Section 1; Table 7 alone was used for the 2013 production value of Section 2. In 2015, Tables 8 and 9 production values were averaged to determine the production for Section 1; Tables 10, 11, and 12 were averaged to determine the production for Section 2.

The production values have been revised to weighted averages. Basal cover values In Attachment Xb were also adjusted to show weighted averages.

30. *Please revise the associated disturbance boundary on Attachments Xc and Xd, 2013 and 2015 Sample Point Locations Maps, to include reclaimed lands located in the NW1/4 of Section 1, northwest corner of the NE1/4 of Section 2, and southwest corner of the SE1/4 of Section 2. (GAW)*

Attachment Xc and Attachment Xd have been updated with the correct associated disturbance boundary.

31. *Attachments Xc and Xd, Sampling Point Locations, are both labeled 2015. It appears that Attachment Xc should be labeled 2013 Sampling Point Locations rather than 2015. Please correct as necessary. (GAW)*

Attachments Xc and Xd have been converted to AutoCAD drawings to more clearly represent information.

32. *Section 1 is subdivided into two tracts and Section 2 is subdivided into three tracts when calculating the standards in Attachments Xa and Xb, Production and Basal Cover Standard Calculations, respectively. Please depict these subtracts on Attachments Xc and Xd, 2013 and 2015 Sampling Point Locations, maps to allow one to determine where these subtracts are located. (GAW)*

The general subtracts have been outlined in purple and purple text labels have been added to Attachments Xc and Xd that correspond with the naming conventions used for the standard calculations.

Attachment XI – Fish and Wildlife Habitat

33. *Please provide narrative that describes the practices used to establish vegetation in reclaimed wetland CW-I02-01 as required by NDAC 69-05.2-12-12(7)(a). This would include seedings, plugging, and respreading soil salvaged from pre-mine wetlands as appropriate. (GAW)*

Language has been added to address the above deficiency.

34. *Please revise Attachment XI, Fish and Wildlife Habitat, to include a discussion about whether erosion is being adequately controlled on lands around the perimeter of the wetland basin. (GAW)*

Language has been added to address the above deficiency.

35. *Please revise Table XI-1, Comprehensive Vegetation Species List for CW-I02-01, with a ranking of occurrence rating for each species (very rare, occasional, abundant, very abundant, subdominant and dominant) in each vegetation zone as required (page 9 of Section II-H of the Revegetation Success Standards document). (GAW)*

A column ranking occurrence has been added to the table.

36. *Please provide a map in Attachment XI, Fish and Wildlife Habitat, that delineates the entire watershed of reclaimed wetland CW-I02-01. (Revegetation Success Standards, Section II-H) (GAW)*

A map that depicts the entire watershed of CW-I02-01 has been added to the package as Attachment XIc.

37. *Please clarify if a natural surface water runoff system was in place for reclaimed wetland CW-I02-01 during the last 5 years of the responsibility period as required (page 10 of Section II-H of the Revegetation Success Standards document). (GAW)*

Language has been added for clarity.

38. *Please reference page 7 of Attachment VII, Hydrologic Consequences, in the second paragraph on page 1 of Attachment XI, Fish and Wildlife Habitat, as a more complete analysis of the quality of the water in reclaimed wetland CW-I02-01. (GAW)*

The requested reference has been added.

39. *Please update Attachment XI, Fish and Wildlife Habitat, with information demonstrating the permanence of the reclaimed wetland CW-I02-01. NDAC 69-05.2-22-07(4)(g) (GAW)*

Additional language has been added.

Attachment XIII – Roads

40. *The heading of the narrative provided for Attachment XIII – Roads, is labeled as Attachment XIV – Roads and this should be changed to Attachment XIII – Roads. In addition, the last sentence in the fourth paragraph states the Mercer County Commissioners approval letter can be viewed in Attachment XIVa and this should also be changed to Attachment XIIIa. (BEB)*

The attachment names have been corrected.

41. *Please provide ground cover data demonstrating that the reclaimed ditch associated with County Road 15 has ground cover adequate to control erosion as required by NDAC 69-05.2-22-07(4)(j). (GAW)*

NDAC 69-05.2-22-07(4)(j) requires "...ground cover on these areas may not be less than required to control erosion." As with previous bond release packages, visual assessment of cover, along with the county's acceptance of the road, is adequate to prove erosion control by vegetation cover is in place. Additionally, surface water monitoring of the area does not show any adverse effects to sediment loads in surrounding waters, which would be a concern if there was not adequate cover within the reclaimed road ditches. Please refer to Coteau's Consolidated Surface Water Monitoring Plan for additional data.

Language has been added referencing the dominant species within the ditch. Additionally, a picture of the road ditch has been included.

Mr. Dean K. Moos
December 22, 2020
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42. Please revise Attachment XIII, Roads, to clarify the width of the rights-of-ways associated with the section line road between Sections 1 and 2 and the width of the right-of-way associated with County Road 15. (GAW)

Rights-of-way width information has been added.

If you have any questions, please contact me.

Sincerely,

THE COTEAU PROPERTIES COMPANY

/s/

Dillon Belisle
Environmental Specialist

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